

BILL NO. X-76-08-09.

ANNEXATION ORDINANCE NO. X- 01-76

AN ORDINANCE annexing certain territory
the City of Fort Wayne, and including
the same in Councilmanic District
No. 3.

WHEREAS, the City of Fort Wayne is desirous of annexing
the territory described within:

NOW THEREFORE, BE IT ORDAINED by the Common Council of
the City of Fort Wayne, Indiana:

SECTION 1. That the following described territory is
hereby annexed and made part of the corporation of the City
of Fort Wayne, Indiana, and shall be and is hereby, considered
a part of said City to-wit:

Being part of Sections 12 and 13, Township
31 North, Range 12 East, more particularly
described as follows:

Beginning at the intersection of the east
right-of-way line of State Road 327, more
commonly known as Coldwater Road and the
South right-of-way line of Cook Road; Said
point being the corporate limits of the City
of Fort Wayne as established by General
Ordinance G-106-67, an ordinance redefining
the corporate limits of the City of Fort
Wayne, Indiana; thence, East along the south
right-of-way line of Cook Road to the North-
west corner of Lot D in A.F. Smith's Sub-
division of the N.E. 1/4, N.W. 1/4, Section
13, Washington Township; thence, due North
along the extended West property line of Lot
D in A.F. Smith's Subdivision to the inter-
section of the North right-of-way line of
Cook Road; thence, West along the North right-
of-way line of Cook Road to the intersection
of the East right-of-way line of State Road
327; (Coldwater Road); thence, South along
the extended East right-of-way line of State
Road 327, (Coldwater Road) to its' intersec-
tion with the South right-of-way of Cook Road,
the place of beginning.

SECTION 2. Said Annexed territory shall be part of
Councilmanic District No. 3 of the City of Fort Wayne,
Indiana, as described in Section 2-9 of Article II of
The Code of the City of Fort Wayne, Indiana of 1974.

SECTION 3. This Ordinance shall be in full force and
effect from and after its passage, approval by the Mayor
and sixty (60) days after its publication.

William T. Angus
Councilman

Approved as to form and legality

John H. Logan
John H. Logan, Attorney for Common
Council.

Read the first time in full and on motion by Dunja, seconded by Talarico, and duly adopted, read the second time by title and referred to the Committee on Annexations (and the City Plan Commission for recommendation), and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the day of _____, 1976, at _____ o'clock P.M., E.S.T.

DATE: 8-10-76.

Charles W. Whitman
CITY CLERK

Read the third time in full and on motion by Dunja, seconded by Talarico, and duly adopted, placed on its passage.

PASSED (LOST) by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	<u>9</u>	<u>0</u>			
BURNS	<u>X</u>				
HINGA	<u>X</u>				
HUNTER	<u>X</u>				
MOSES	<u>X</u>				
NUCKOLS	<u>X</u>				
SCHMIDT, D.	<u>X</u>				
SCHMIDT, V.	<u>X</u>				
STIER	<u>X</u>				
TALARICO	<u>X</u>				

DATE: 8/24/76

Charles W. Whitman
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL) (APPROPRIATION) ORDINANCE (RESOLUTION) No. X-01-76 on the 24th day of August, 1976.

ATTEST: (SEAL)

Charles W. Whitman
CITY CLERK

James S. Stier
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 25th day of August, 1976, at the hour of 10:30 o'clock A. M., E.S.T.

Charles W. Whitman
CITY CLERK

Approved and signed by me this 3rd day of September, 1976, at the hour of 9:00 o'clock A. M., E.S.T.

Robert E. Armstrong
MAYOR

Bill No. X-76-08-09

REPORT OF THE COMMITTEE ON ANNEXATION

We, your Committee on Annexation to whom was referred an Ordinance
Annexing certain territory to the City of Fort Wayne, and including
the same in Councilmanic District No. 3

have had said Ordinance under consideration and beg leave to report back to the Common
Council that said Ordinance Do PASS.

William T. Hinga - Chairman

Vivian G. Schmidt - Vice-Chairman

Paul M. Burns

Fredrick R. Hunter

Samuel J. Talarico

William T. Hinga

Vivian G. Schmidt

Paul M. Burns

Fredrick R. Hunter

Samuel J. Talarico

4.511



FORT WAYNE, INDIANA 46802

office of the mayor

September 3, 1976

To the Members of the Common Council

Gentlemen and Mrs. Schmidt:

Annexation Ordinance No. X-01-76, an Ordinance annexing certain territory in Councilmanic District No. 3, was presented to me on August 25 for approval.

The area which would be annexed is the right-of-way area of the Cook Road. The purpose of annexation is to permit the City to build sidewalks for the use of school children attending Lincoln and Shawnee schools.

To provide for the safety of these children going to and from school has been uppermost in my mind ever since assuming the Office of Mayor. To this end, I have charged my legal staff with researching the laws to see if there is a way in which the City of Fort Wayne could install these walks.

The legal staff has informed me that "A city shall have the power to establish, construct, maintain, control and operate public and municipal facilities, within a distance of four miles from its corporate limits." Several other statutes also appear to make it possible for the Board of Works of the City of Fort Wayne to install the sidewalks on Cook Road.

The legal staff also has pointed out that the legal description contained in the annexation ordinance and the map which is also in the ordinance are ambiguous. Also, this "spot zoning" does not meet the requirements for annexation as set forth in the Cities and Towns Act of 1969 and it quite possibly could be declared invalid in a court of law.



To the Members of the Common Council

Page 2

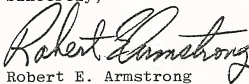
September 3, 1976

The property owners have evidenced their willingness to participate in costs of construction by contributing and soliciting others to contribute to the fund which has been established to aid in this effort. Therefore, I have instructed the Board of Public Works to have our Engineering Department prepare specifications and to advertise to take bids so a contract may be let immediately for construction of a sidewalk on the south side of Cook Road, from Coldwater Road to the aforementioned schools. The City will pay the difference between the amount collected for this purpose and actual construction costs.

The Ordinance, if legal, does not take effect until 60 days after its publication. Doubting the legality and certainly understanding that it is superfluous in the construction of these sidewalks, I am returning this document to you signed so that in no way will I impede this important project.

I leave the determination of the legality to the courts. In the meantime, I have the satisfaction of knowing that sidewalks for the safety of these children will be a reality in the very near future.

Sincerely,

A handwritten signature in dark ink, appearing to read "Robert E. Armstrong". The signature is fluid and cursive, with the first name "Robert" being more prominent.

Robert E. Armstrong
Mayor

REA:pl

Admn. Appr.

DIGEST SHEET

X-76-08-09
~~X-96-08-09~~

TITLE OF ORDINANCE An Ordinance annexing certain territory the City of Fort Wayne, and including the same in Councilmanic District No. 3

DEPARTMENT REQUESTING ORDINANCE Councilman, William G. Hinga

SYNOPSIS OF ORDINANCE Allows for annexation of Cook Road from

U.S. Highway ³²⁷ 33E to Lot "D" A.F. Smith's Subdivision.

EFFECT OF PASSAGE Ability to make improvements in road right-of-way.

EFFECT OF NON-PASSAGE non ability to make improvements.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) none

ASSIGNED TO COMMITTEE (PRESIDENT) Annexation Committee



THE CITY OF FORT WAYNE

CITY-COUNTY BUILDING • ONE MAIN STREET • FORT WAYNE, INDIANA 46802

room 122

charles w. westerman, clerk

September 7, 1976

Miss Helen Libbing
Fort Wayne Newspapers, Inc.
600 West Main Street
Fort Wayne, Indiana 46802

Dear Miss Libbing:

Please give the attached full coverage on the dates of September 10 and September 17, 1976, in both the News Sentinel and Journal Gazette.

RE: Legal Notice for Common Council
of Fort Wayne, Indiana:

Bill No. X-76-08-09
Annexation Ordinance No. X-01-76

Please send us five (5) copies of the Publisher's Affidavit from both newspapers.

Sincerely,

Charles W. Westerman
City Clerk

CWW/ne
ENCL: 1

Common Council of Fort Wayne
(Governmental Unit)

To THE NEWS-SENTINEL Dr.

Allen County, Ind.

FORT WAYNE, INDIANA

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set)
— number of equivalent lines

Head number of lines

Body number of lines

Tail number of lines

Total number of lines in notice

1

118

2

121

COMPUTATION OF CHARGES

LEGAL NOTICE
Notice is hereby given that on the 24th day of August, 1976, the Common Council of the City of Fort Wayne, Indiana, in a Regular Session, did pass the following Bill No. X-76-28-09 X-01-76 Annexation Ordinance, to wit:BILL NO. X-76-28-09
ANNEXATION ORDINANCE NO. X-01-76

AN ORDINANCE annexing certain territory the City of Fort Wayne, and including the same in Councilmanic District No. 3.

WHEREAS, The City of Fort Wayne is desirous of annexing the territory described within:

NOW THEREFORE, BE IT ORDAINED by the Common Council of the City of Fort Wayne, Indiana:

SECTION 1. That the following described territory is hereby annexed and made part of the corporation of the City of Fort Wayne, Indiana, and shall be and is hereby, considered a part of said City to wit:

Being part of Sections 12 and 13, Township 31 North, Range 12 East, more particularly described as follows: Beginning at the intersection of the east right-of-way line of State Road 327, more commonly known as Coldwater Road and the South right-of-way line of Cook Road; said point being the corporate limits of the City of Fort Wayne as established by General Ordinance G-106-67, an ordinance redefining the corporate limits of the City of Fort Wayne, Indiana; thence, East along the south right-of-way line of Cook Road to the Northwest corner of Lot D in A.F. Smith's Subdivision of the N.E. 1/4, N.W. 1/4, Section 13, Washington Township; thence, due North along the extended West property line of Lot D in A.F. Smith's Subdivision to the intersection of the North right-of-way line of Cook Road; thence, West along the North right-of-way line of Cook Road to the intersection of the East right-of-way line of State Road 327; (Coldwater Road); thence, South along the extended East right-of-way line of State Road 327; (Coldwater Road) to its intersection with the South right-of-way of Cook Road, the place of beginning.

SECTION 2. Said Annexed Territory shall be part of Councilmanic District No. 3 of the City of Fort Wayne, Indiana, as described in Section 2-9 of Article II of The Code of the City of Fort Wayne, Indiana of 1974.

SECTION 3. This Ordinance shall be in full force and effect after its passage, approval by the Mayor and sixty (60) days after its publication.

WILLIAM T. HINGA, Councilman

Read the third time in full and on motion by Hinga, seconded by Talarico, and duly adopted, placed on its passage. PASSED by the following vote:

Ayes: Nine

Burns, Hinga, Hunter, Moses, Nuckols, D. Schmidt, V. Schmidt, Slier, Talarico

Nays: None

Date: 8-25-76

Charles W. Westerman, City Clerk

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as Annexation Ordinance No. X-01-76 on the 24th day of August, 1976.

ATTEST:

Charles W. Westerman, City Clerk

James S. Slier, Presiding Officer

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 25th day of August, 1976, at the hour of 10:30 o'clock A.M., E.S.T.

Charles W. Westerman, City Clerk

Approved and signed by me this 3rd day of September, 1976, at the hour of 9:00 o'clock A.M., E.S.T.

Robert E. Armstrong, Mayor

I, Charles W. Westerman, Clerk of the City of Fort Wayne, Indiana, do hereby certify that the above and foregoing is a full, true and complete copy of Annexation Ordinance No. X-01-76 passed by the Common Council on the 24th day of August, 1976, and that said Ordinance was duly signed and approved by the Mayor on the 3rd day of September, 1976, and now remains on file and on record in my office.

WITNESS my hand, and the official seal of the City of Fort Wayne, Indiana, this 3rd day of September, 1976.

CHARLES W. WESTERMAN, CITY CLERK

9-10-76

lines 1 columns wide equals 121 equivalent lines at .2594 cents per line

\$ 31.34

Additional charge for notices containing rule or tabular work (50 per cent of above)

1.50

for extra proofs of publication (50 cents for each proof in excess of two)

\$ 32.84

TOTAL AMOUNT OF CLAIM

PRINTING COST

9.9
of single column items

Size of type 5 1/2 point

Number of insertions 2

Size of quad upon which type is cast 5 1/2

Provision and penalties of Ch. 89, Acts 1967,

that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just part of the same has been paid.

V.E. GERKEN

17, 1976

Title CLERK

PUBLISHER'S AFFIDAVIT

State of Indiana }
Allen County } as:

Personally appeared before me, a notary public in and for said county and state, the undersigned V.E. GERKEN

who, being duly sworn, says that she is CLERK

NEWS-SENTINEL

a DAILY newspaper of general circulation printed and published

in the English language in the city of FORT WAYNE, INDIANA

in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 2 times, the dates of publication being as follows:

9/10-17/76

Subscribed and sworn to before me this 17th day of September, 1976

Notary Public

My commission expires September 28, 1979

Common Council of Fort Wayne
(Governmental Unit)

To THE NEWS-SENTINEL Dr.

Allen County, Ind.

FORT WAYNE, INDIANA

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set) — number of equivalent lines	_____
Head number of lines	<u>1</u>
Body number of lines	<u>118</u>
Tail number of lines	<u>2</u>
Total number of lines in notice	<u>121</u>

COMPUTATION OF CHARGES

121 lines, 1 columns wide equals 121 equivalent lines at .259¢ cents per line	\$ 31.34
Additional charge for notices containing rule or tabular work (50 per cent of above amount)	_____
Charge for extra proofs of publication (50 cents for each proof in excess of two)	1.50
TOTAL AMOUNT OF CLAIM	\$ 32.84

DATA FOR COMPUTING COST

Width of single column <u>9.9</u> Kems	Size of type <u>5 1/2</u> point
Number of insertions <u>2</u>	Size of quad upon which type is cast <u>5 1/2</u>

Pursuant to the provision and penalties of Ch. 89, Acts 1967,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

*V. E. Gerken*Date September 17, 19 76Title CLERK

PUBLISHER'S AFFIDAVIT

State of Indiana }
Allen County } ss:Personally appeared before me, a notary public in and for said county and state, the undersigned V. E. GERKEN who, being duly sworn, says that she is CLERK of theNEWS-SENTINELa DAILY newspaper of general circulation printed and published in the English language in the city of FORT WAYNE, INDIANA in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 2 times, the dates of publication being as follows:9/10-17/76Subscribed and sworn to before me this 17th day of September, 19 76*V. E. Gerken*
Notary PublicMy commission expires September 28, 1979CH COPY OF
SEMENT HERE

employees

Inc.

Common Council of Fort Wayne
(Governmental Unit)

To JOURNAL-GAZETTE Dr.

Allen County, Ind.

FORT WAYNE, INDIANA

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set)
— number of equivalent lines

Head number of lines

Body number of lines

Tail number of lines

Total number of lines in notice

1

118

2

121

LEGAL NOTICE

notice is hereby given that on the 24th day of August, 1976, the Common Council of the City of Fort Wayne, Indiana, in a Regular Session did pass the following Bill No. X-76-08-09 X-01-76 Annexation Ordinance, to wit:

ANNEXATION ORDINANCE NO. X-01-76

AN ORDINANCE annexing certain territory in the City of Fort Wayne, Indiana, and including the same in Councilmatic District No. 3.

WHEREAS, The City of Fort Wayne is desirous of annexing the territory described within:

NOW THEREFORE, BE IT ORDAINED by the Common Council of the City of Fort Wayne, Indiana:

SECTION 1. That the following described territory is hereby annexed and made part of the corporation of the City of Fort Wayne, Indiana, and shall be and is hereby, considered a part of said City to-wit:

Being part of Sections 12 and 13, Township 31 North, Range 12 East, more particularly described as follows: Beginning at the intersection of the east right-of-way line of State Road 327, more commonly known as Coldwater Road and the South right-of-way line of Cook Road; Said point being the corporate limits of the City of Fort Wayne as established by General Ordinance G-16-47, an ordinance redefining the corporate limits of the City of Fort Wayne, Indiana; thence, East along the south right-of-way line of Cook Road to the Northwest corner of Lot D in A.F. Smith's Subdivision of the N.E. 1/4, N.W. 1/4, Section 13, Washington Township, thence, due North along the extended West property line of Lot D in A.F. Smith's Subdivision to the intersection of the North right-of-way line of Cook Road; thence, South along the extended East right-of-way line of State Road 327, (Coldwater Road); thence, South along the extended East right-of-way line of State Road 327, (Coldwater Road) to its intersection with the South right-of-way of Cook Road, the place of beginning.

SECTION 2. Said Annexed Territory shall be part of Councilmatic District No. 3 of the City of Fort Wayne, Indiana, as described in Section 2-2 of Article III of The Code of the City of Fort Wayne, Indiana of 1974.

SECTION 3. This Ordinance shall be in full force and effect from and after its passage, approval by the Mayor and sixty (60) days after its publication.

WILLIAM T. KINGA,

COUNCILMAN

Read the third time in full and on motion by Hinga, seconded by Taylor, co. and duly adopted, placed on its passage, approval by the following vote:

Ayes: Nine
Burros, Hinga, Hunter, Moses, Nuckols, D. Schmidt, V. Schmidt, Stier, Talarico.
Nays: None
Date: 8-25-76

Charles W. Westernman

City Clerk

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, an Annexation Ordinance No. X-01-76 on the 24th day of August, 1976.

ATTEST:

Charles W. Westernman

City Clerk

James S. Stier

Presiding Officer

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 25th day of August, 1976, at the hour of 10:30 o'clock A.M., E.S.T.

Charles W. Westernman

City Clerk

Approved and signed by me this 3rd day of September, 1976, at the hour of 9:00 o'clock A.M., E.S.T.

Robert E. Armstrong

Mayor

I, Charles W. Westernman, Clerk of the City of Fort Wayne, Indiana, do hereby certify that the above and foregoing is a full, true and complete copy of Annexation Ordinance No. X-01-76 passed by the Common Council on the 24th day of August, 1976, and that said Ordinance was duly signed and approved by the Mayor on the 3rd day of September, 1976, and now remains on file and on record in my office.

WITNESS my hand, and the official seal of the City of Fort Wayne, Indiana, this 3rd day of September, 1976.

CHARLES W. WESTERMAN

CITY CLERK

HARGES

lines, 1 columns wide equals 121 equivalent lines at .2594 cents per line

\$ 31.34

al charge for notices containing rule or tabular work (50 per cent of above

or extra proofs of publication (50 cents for each proof in excess of two)

1.50

TOTAL AMOUNT OF CLAIM

\$ 32.84

PRINTING COST

single column 11 ems

Size of type 5 1/2 point

of insertions 2

Size of quad upon which type is cast 5 1/2

dition and penalties of Ch. 89, Acts 1967,

the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just part of the same has been paid.

7
XX 19.76

Arvilla DeWald
CLERK

Title

CLERK

PUBLISHER'S AFFIDAVIT

State of Indiana
Allen County } ss:

Personally appeared before me, a notary public in and for said county and state, the undersigned

ARVILLA DEWALD

who, being duly sworn, says that she is

CLERK

of the

JOURNAL-GAZETTE

a DAILY newspaper of general circulation printed and published

in the English language in the city of FORT WAYNE, INDIANA

in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 2 time s, the dates of publication being as follows:

9/10-17/76

Subscribed and sworn to before me this 17th day of September 1976

Notary Public

My commission expires September 28, 1979

Common Council of Fort Wayne
(Governmental Unit)

To JOURNAL-GAZETTE Dr

Allen County, Ind.

FORT WAYNE, INDIANA

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set)
— number of equivalent lines

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Total number of lines in notice

121

COMPUTATION OF CHARGES

121 lines, 1 columns wide equals 121 equivalent lines at .259¢
cents per line

31.34

Additional charge for notices containing rule or tabular work (50 per cent of above amount)

Charge for extra proofs of publication (50 cents for each proof in excess of two)

1.50

TOTAL AMOUNT OF CLAIM

32.84

DATA FOR COMPUTING COST

Width of single column ~~11~~^{19.9} ems

Size of type 5½ point

Number of insertions 2Size of quad upon which type is cast 5 1/2

Pursuant to the provision and penalties of Ch. 89, Acts 1967.

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

17
Date September ~~XX~~, 19 76

Title _____ CLERK

PUBLISHER'S AFFIDAVIT

State of Indiana } ss:
ALLEN County }

Personally appeared before me, a notary public in and for said county and state, the undersigned ARVILLA DEWALD who, being duly sworn, says that she is CLERK of the _____

JOURNAL-GAZETTE

a DAILY newspaper of general circulation printed and published

In the English language in the city } of FORT WAYNE, INDIANA

in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 2 time s, the dates of publication being as follows:

9/10-17/76

Subscribed and sworn to before me this 17th day of September 1976

Notary Public

My commission expires September 28, 1979

COPY OF
MENT HERE

[illegible]